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May 31, 2013

VIA ELECTRONIC MAIL

D+F
6/4/13

The Honorable Denise L. Cote
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street, Room 1610
New York, New York 10007-1312

Re: United States v. Apple Inc., 12 Civ. 2826 (DLC), Texas v. Penguin Group (USA) Inc.,
12 Civ. 3394 (DLC)

Dear Judge Cote:

On behalf of Apple, we respectfully write to request that Your Honor permit Eddy Cue, Apple's Senior Vice President of Internet Software and Services, to testify at the trial on June 13 so that he may attend Apple's 2013 Worldwide Developer Conference ("WWDC"). The parties have met and conferred on this issue, and we now seek the Court's permission to have Mr. Cue testify on June 13 so that he, Apple, and Plaintiffs can all plan accordingly.

At the final pre-trial conference on May 23, Your Honor stated that counsel should "cooperate with each other" on witness scheduling and directed the parties to "[n]ail down the order of witnesses on both sides" by yesterday. Tr. at 50. Your Honor also made clear that "[i]f a witness's schedule needs to be accommodated, I am happy to take witnesses out of order." *Id.* at 6.

As we have shared with Plaintiffs, Mr. Cue's professional obligations warrant accommodation. Specifically, Mr. Cue is among Apple's most senior executives, reporting directly to Apple CEO Tim Cook, and his responsibilities include oversight of all of Apple's content businesses, including the App Store. *See* Ex. A (Mr. Cue's official biography). As the Court is aware, Apple's App Store is one of Apple's content stores, where consumers can download software applications, or "apps," for use on Apple's devices. To date, since the App Store's launch in 2008, consumers have downloaded approximately 50 billion apps. As part of his App Store oversight, Mr. Cue must attend WWDC, a sold-out Apple-sponsored conference attended by over 5,000 outside app developers. WWDC will "feature more than 100 technical sessions presented by over 1,000 Apple engineers, hands-on labs to help developers integrate new technologies, [and] the popular Apple Design Awards, a showcase of the most outstanding apps available through the App Store and Mac App Store." Ex. B (Apr. 24, 2013 press release). It is the most important industry event for app developers. At

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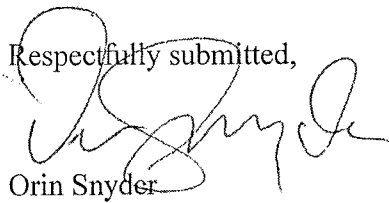
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the conference, Mr. Cue will be presenting on stage as part of the keynote presentation, will attend important events, and will meet with some of Apple's most important content providers. WWDC is scheduled for June 10 through 14 in San Francisco. *Id.*

Apple has conveyed to Plaintiffs that Mr. Cue is available to come to trial at any time during its first week or the third week, as well as on June 13. Plaintiffs' position is that they would prefer Mr. Cue be available during the second week to testify, and they understand that, depending on how the trial progresses, they may in fact end up calling Mr. Cue on June 13. However, Plaintiffs expressed to us this afternoon that, at this time, they cannot agree to rest their case prior to June 13 without calling Mr. Cue unless the Court allows them to reopen their case on June 13 to call Mr. Cue. Thus, we respectfully request that the Court permit Mr. Cue to testify on June 13, and that, if Plaintiffs have already rested their case by that date, Plaintiffs' case may be reopened until such time as they complete their examination of Mr. Cue.

We appreciate the Court's attention to this matter.

Respectfully submitted,



Orin Snyder

cc: All Counsel

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Eddy Cue

Senior Vice President,
Internet Software and Services

Eddy Cue is Apple's senior vice president of Internet Software and Services, reporting to CEO Tim Cook.

Eddy oversees Apple's industry-leading content stores including the iTunes Store, the revolutionary App Store and the iBookstore, as well as Siri, Maps, iAd and Apple's innovative iCloud services. Eddy's team has an excellent track record of building and strengthening online services to meet and exceed the high expectations of Apple's customers.

He is a 24-year Apple veteran and leads a large organization of amazing people. Eddy played a major role in creating the Apple online store in 1998, the iTunes Music Store in 2003 and the App Store in 2008. He also played a key role in developing Apple's award-winning iLife suite of applications. In his early years at Apple, he was a successful manager of software engineering and customer support teams.

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Eddy earned a bachelor's degree in Computer Science and Economics from Duke University.



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Apple Worldwide Developers Conference to Kick Off June 10 in San Francisco

Tickets on Sale Tomorrow

CUPERTINO, California—April 24, 2013—Apple® today announced that it will hold its annual Worldwide Developers Conference (WWDC) June 10 through June 14 at San Francisco's Moscone West. At the five-day conference, developers from around the world will learn about the future of iOS and OS X®, enabling them to create incredible new apps with innovative features. WWDC will also feature more than 100 technical sessions presented by over 1,000 Apple engineers, hands-on labs to help developers integrate new technologies, as well as the popular Apple Design Awards, a showcase of the most outstanding apps available through the App Store™ and Mac® App Store. Tickets for this year's WWDC go on sale Thursday, April 25 at 10 a.m. PDT.

"We look forward to gathering at WWDC 2013 with the incredible community of iOS and OS X developers," said Philip Schiller, Apple's senior vice president of Worldwide Marketing. "Our developers have had the most prolific and profitable year ever, and we're excited to show them the latest advances in software technologies and developer tools to help them create innovative new apps. We can't wait to get new versions of iOS and OS X into their hands at WWDC."

WWDC 2013 activities include:

- More than 100 technical sessions presented by Apple engineers on a wide range of topics for developing, deploying and integrating the latest iOS and OS X technologies;
- more than 1,000 Apple engineers supporting over 100 hands-on labs and events to provide developers with code-level assistance, insight into optimal development techniques and guidance on how they can make the most of iOS and OS X technologies in their apps;
- the latest innovations, features and capabilities of iOS and OS X, and how to enhance an app's functionality, performance, quality and design;
- the opportunity to connect with thousands of fellow iOS and OS X developers from around the world—last year more than 60 countries were represented;
- engaging and inspirational lunchtime sessions with leading minds and influencers from the worlds of technology, science and entertainment; and
- Apple Design Awards which recognize iPhone®, iPad® and Mac apps that demonstrate technical excellence, innovation and outstanding design.

To purchase tickets, get updates and more information, developers can go to the WWDC website (developer.apple.com/wwdc).

Apple designs Macs, the best personal computers in the world, along with OS X, iLife, iWork and professional software. Apple leads the digital music revolution with its iPods and iTunes online store. Apple has reinvented the mobile phone with its revolutionary iPhone and App Store, and is defining the future of mobile media and computing devices with iPad.

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